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Filing date: **06/06/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91216126
Party	Defendant Claude Lambert
Correspondence Address	CLAUDE LAMBERT 108 RICHARD ST SAINT JOHN, E2J1C2 CANADA uspto@trademarks411.com
Submission	Answer
Filer's Name	William G. Mitchell
Filer's e-mail	gmitchell@juneaumitchell.com
Signature	/ William G. Mitchell /
Date	06/06/2014
Attachments	Lambert TTAB 91216126 Answer.pdf(1783050 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

HELLS ANGELS MOTORCYCLE CORPORATION	)	
	)	
Opposer,	)	
	)	
v.	)	
	)	
	)	
CLAUDE LAMBERT,	)	
	)	
Applicant	)	
_____	)	

In re Application Serial No. 86/011,335  
Mark: Filthy Few  
Published: February 25, 2014  
Opposition No. 91216126

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**ANSWER TO NOTICE OF OPPOSITION**

Claude Lambert (“Applicant”) hereby Answers the Notice of Opposition filed by Hells Angels Motorcycle Corporation (“Opposer”) on April 23, 2014, and admits, denies and alleges as follows:

1. Applicant admits that on July 16, 2013, Applicant filed an application for federal registration of the FILTHY FEW mark under section 1(a) of the Lanham Act for “custom manufacture of embroidered patches, and label pins” in International Class 40 (the “ ‘335 Application”).
2. Applicant admits that Applicant’s FILTHY FEW mark was published in the Official Gazette on February 25, 2014.
3. Applicant is without sufficient information to admit or deny the allegations set forth in Paragraph 3 of the Notice of Opposition, and therefore denies the same.

4. Applicant denies the allegations set forth in Paragraph 4 of the Notice of Opposition.
5. Applicant is without sufficient information to admit or deny the allegations set forth in Paragraph 5 of the Notice of Opposition, and therefore denies the same.
6. Applicant denies the allegations set forth in Paragraph 6 of the Notice of Opposition, and refers to Affirmative Defense 3 herein below.
7. Applicant denies the allegations set forth in Paragraph 7 of the Notice of Opposition.
8. Applicant is without sufficient information to admit or deny the allegations set forth in Paragraph 8 of the Notice of Opposition, and therefore denies the same.
9. Applicant denies the allegations set forth in Paragraph 9 of the Notice of Opposition.
10. Applicant denies the allegations set forth in Paragraph 10 of the Notice of Opposition.
11. Applicant is without sufficient information to admit or deny the allegations set forth in Paragraph 11 of the Notice of Opposition, and therefore denies the same.
12. Applicant is without sufficient information to admit or deny the allegations set forth in Paragraph 12 of the Notice of Opposition, and therefore denies the same.
13. Applicant is without sufficient information to admit or deny the allegations set forth in Paragraph 13 of the Notice of Opposition, and therefore denies the same.
14. Applicant denies the allegations set forth in Paragraph 14 of the Notice of Opposition.

#### **AFFIRMATIVE DEFENSES**

1. Opposer has failed to state a claim for which relief may be granted.
2. Despite its claim to 46 years' prior use, Opposer failed to register its alleged common law mark with the USPTO during such time. Opposer only recently made an application for registration of the mark FILTHY FEW, Application 86132748 (the " '748 Application"), which was filed subsequent

to Applicant's filing date.

3. Opposer has failed and continues to fail to police or take any actions to protect its alleged common law mark. USPTO records indicate that the trademark FILTHY FEW has been applied for three times in the past by persons other than Opposer or Applicant, specifically Application Nos. 75044188, 77938731 and 78911780. Each such application was made during Opposer's claimed 46-year use period, and in no such case did Opposer file an opposition. Additionally, multiple third parties have sold and continue to sell goods that fall within the goods description of Opposer's '748 Application, but which fall outside the services description of Applicant's '335 Mark. See, Exhibit A, a sample of commercial offerings by such third party sellers.

3. Opposer has failed to show how it reasonably believes that it will be damaged by registration of Applicant's mark.

4. Opposer is barred from opposing Applicant's registration under the doctrine of unclean hands.

5. Opposer's marks are not widely recognized by the general consuming public of the United States as a designation of source of the goods of Opposer, and are not famous within the meaning of section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

6. The use of the FILTHY FEW Mark by Applicant will not dilute the alleged distinctiveness of any word or design marks allegedly owned by Opposer.

7. Opposer's alleged common law mark is not a collective membership mark, in that it does not serve to indicate membership in the Hells Angels' organization, but rather is a recognition of illegal activity on the part of the wearer.

8. As used by Opposer's membership, the alleged common law mark is a recognition of illegal, immoral or scandalous activity on the part of the wearer. When used by Opposer's membership, the

alleged common law mark is also sometimes accompanied by a Nazi double lightning bolt “SS” component, or a Satanic “666” component. See, Exhibit B. Thus, as used by Opposer’s membership, the alleged common law mark “consists or comprises immoral, deceptive, or scandalous matter.” 15 U.S.C. §1052. Thus, Opposer’s alleged common law mark is not protectable and is therefore ineffective to create standing for Opposer’s opposition of Applicant’s mark. In contrast, Applicant’s mark is used solely in a commercial context and contains no illegal, immoral or scandalous connotations or iconography.

9. Applicant denies each and every allegation of the Opposition not specifically admitted or otherwise responded to herein. Applicant further denies that the Application, Serial No. 86011335, should be rejected for any reason; denies that Opposer has asserted any basis in law or in fact sufficient to sustain the Opposition to the registration of Applicant’s Mark for the goods claimed in the Application; denies that the Opposition should be sustained in favor of Opposer; and denies that Opposer is entitled to any relief whatsoever against Applicant, Claude Lambert.

### **REQUESTED RELIEF**

WHEREFORE, having fully answered the Opposition, Applicant Claude Lambert respectfully requests that:

1. the Opposition be dismissed and/or denied in its entirety;
2. the judgment be entered in favor of Claude Lambert on the Opposer’s opposition against Applicant’s ‘335 Application and each and every claim and count thereof;
3. that a registration be issued to Claude Lambert for Applicant’s mark FILTHY FEW, as applied for in the ‘335 Application; and

4. Claude Lambert be granted such other and further relief as the Board deems just and proper

Respectfully submitted, this 6th day of June, 2014.

**JUNEAU & MITCHELL**  
**Attorneys for Applicant**

By: /s/ William Gray Mitchell

William G. Mitchell  
NC State Bar No. 23359  
Todd L. Juneau  
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info@juneaumitchell.com

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Answer to Opposition has been sent via first class mail this 6<sup>th</sup> day of June, 2014 to:

FRITZ CLAPP, ESQ.  
P.O. Box 2517  
Beverly Hills, CA 90213  
Telephone: 888-292-5784  
Facsimile: 888-467-2341

/ William G. Mitchell /  
William G. Mitchell

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Item #193742

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NEW CUSTOM MADE FILTHY FEW CHOPPERS SINCE 1976 MENS SM 34/36 2-SIDED TSHIRT NWT

Item condition: **New with tags**

Add to watch list

Price: **US \$8.25**

[Buy It Now](#)

[Add to cart](#)

Best Offer:

[Make Offer](#)

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Best offer available

New Condition

**Bill Me Later**

New customers get \$15 back on 1st purchase  
Subject to credit approval. [See terms](#)

Shipping: **\$3.55** Standard Shipping | [See details](#)

Item location: Oxford, Mississippi, United States  
Ships to: Worldwide

Delivery:

Estimated on or before **Thu, Jun. 05** to 60053

Payments: **PayPal**, Bill Me Later | [See details](#)

Returns:

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Guarantee:

[See details](#)  
Get the item you ordered or get your money back.  
Covers your purchase price and original shipping.

**Seller information**  
**bruth32** (4316 )  
98.3% Positive feedback

---

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**West Coast Choppers Mens T-Shirt Size XL...**  
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**Motorcycle graphic**  
**\$12**

Feedback on our suggestion

Description

Shipping and payments

Seller assumes all responsibility for this listing.

Last updated on May 10, 2014 10:01:31 PDT [View all revisions](#)

**Item specifics**

Condition:

New with tags: A brand-new, unused, and unworn item (including handmade items) in the original packaging (such as ... [Read more](#)

Color:

White

Sleeve Length:

Short Sleeve

Material:

100% Cotton

Shade:

White

Brand:

Delta Pro Weight

Style:

Graphic Tee

Size Type:

Regular

Size (Men's):

S

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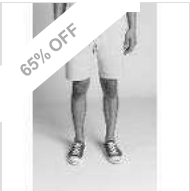
Burton Chopper Tri-  
Blend Tee Men's...  
**\$29.99**  
Free Shipping  
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Filthy Etiquette The  
Nathan Shirt in...  
**\$34.00** ~~\$59.00~~  
+ \$6.00 Shipping  
Karmaloop



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Money Maroon...  
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## Rebel Eight /Filthy Few Crew Shirt ( Used Size L ) Good Condition!!!

Item **Pre-owned**  
condition:*"This shirt is in Good Condition! it has been washed and worn has light fade, but no holes or stains, "*

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Time left: 3d 20h (Jun 03, 2014 06:18:40 PDT)

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## Seller information

**rockin-4-1** (240 )

100% Positive feedback

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Starting bid: **US \$15.00** [ 0 bids ]

Place bid

Enter US \$15.00 or more

Add to watch list

Add to collection

100% positive  
Feedback☒ **Bill Me Later** New customers get \$15 back on 1st purchase  
Subject to credit approval. See termsShipping: **\$5.50** Expedited Shipping | [See details](#)

Item location: Salt Lake City, Utah, United States

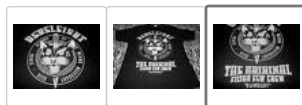
Ships to: United States and many other countries | [See details](#)Delivery: Estimated between **Thu. Jun. 5** and **Sat. Jun. 7**Payments: **PayPal**, Bill Me Later | [See details](#)

Returns: Seller does not offer returns. You are covered by the eBay Money Back Guarantee if you received an item that is not as described in the listing.

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SIG  
SHIRT**\$46.99**

## Description

## Shipping and payments

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eBay item number: 321416674248

Seller assumes all responsibility for this listing.

## Item specifics

Condition: **Pre-owned** :Seller Notes: *"This shirt is in Good Condition! it has been washed and worn has light fade, but no holes or stains, see pics. Size L (Note: Sizes Very From True Size - Please See Measurements ) 21" from armpit to armpit length is 29" next to the collar to the bottom of the shirt. "*

Brand: Rebel Eight

Size (Men's): L

Style: Graphic Tee

Color: Black

Size Type: Regular

Sleeve Length: Short Sleeve

**This shirt is in Good Condition! it has been washed and worn has light fade, but no holes or stains, see pics. Size L (Note: Sizes Very From True Size - Please See Measurements ) 21" from armpit to armpit length is 29" next to the collar to the bottom of the shirt.**

**Payment Due 48hrs After Sale Ends.**

**Due to lost packages to overseas, I will not ship outside the U.S. any bids outside the U.S.A. will be canceled immediately! I only ship to address that is confirmed by PayPal. Sorry for the inconvenience.**

Questions and answers about this item
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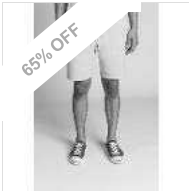
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The online magazine obsessively dedicated to vintage and new snapback caps.

## TRUKFIT "Filthy Few" Snapback Cap

Posted by Woody, February 24th, 2012 02:02 am under [News](#) [Skate](#)



2782

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Down and Dirty.Lil Wayne's new skate brand TRUKFIT wants you to be filthy and proud. I never thought the two would go together but this hat definitely changed my mind. This snapback cap comes in two colorways, Black/Red and White/Red. Both feature solide crowns with contrast brims and the words Filthy Few embroidered on the front panel. Available now at Drez.

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## FUTURE "Desde Sempre" Snapback Cap PHRE\$HCRU x NEW ERA "Cru Love" Snapback Cap

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## EXHIBIT B





